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**C O V E R**

**S H E E T**

**FAX**

**To:** Dockets Management System  
U.S. Department of Transportation  
Room PL-401

**Fax #:** 202-493-2251  
**Date:** August 11, 2003  
**Pages:** 5, including this cover sheet  
**From:** Skipper Kendrick

**RE:** Docket Number RSPA-03-15327 (HM-206B) - 12

**COMMENTS:**

2003 AUG 11 PM 2:48

DEPT OF TRANSPORTATION  
ROOM 113

# AMERICAN SOCIETY OF SAFETY ENGINEERS

1800 East Oakton Street  
Des Plaines, Illinois 60018-2187 USA

847.699.2929  
FAX 847.296.3769  
www.asse.org



August 11, 2003

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Dockets Management System  
U.S. Department of Transportation  
Room PL-401  
400 Seventh St., SW  
Washington, DC 20590-0001

**Re: Docket Number RSPA-03-15327 (HM-206B)**

**Statement of the American Society of Safety Engineers  
On the Department of Transportation, Research and Special Programs  
Administration, Proposed Rulemaking:  
*Hazardous Materials: Changes to the  
Hazard Communication Requirements***

The American Society of Safety Engineers ("ASSE"), on behalf of its 30,000 members in the environment, safety and health community, is pleased to submit the following comments concerning the notice of proposed rulemaking concerning Hazardous Materials: Changes to the Hazard Communication Requirements, published by the Department of Transportation, Research and Special Programs Administration ("RSPA"), in the June 11, 2003, Federal Register (68 Fed. Reg. 34880 et seq.). We ask that this statement be included in the formal rulemaking record for this proposal.

ASSE is a professional society consisting of 13 practice specialties, including transportation, whose active members are dedicated to workplace and public safety. Founded in 1911, the Society is the largest and oldest professional safety organization.

RSPA has proposed revisions to specifications for labels and placards, as a result of petitions for rulemaking and requests for clarification submitted by the New Jersey State Firemen's Mutual Benevolent Association, the Dangerous Goods Advisory Council, the Compressed Gas Association, the Los Angeles Police Department, and the Industrial Fumigant Company. The main emphasis in this rulemaking appears to be to strengthen and/or clarify warnings displayed on transported goods, containers and transport vehicles in order to protect emergency responders and to enhance the ability of others who might handle or encounter hazardous materials to safely deal with such situations. In general, the

recommendations contained in the proposed rule appear sound and designed to further safety and health, and provide protection for both the general public and emergency personnel. As such, ASSE offers its support of the rulemaking initiative.

The agency's Hazardous Materials Regulations, 49 CFR Parts 171-180, require that during transportation (1) Non-bulk packages of hazardous materials be marked with shipping name and identification number of the transported materials, and bear a hazard warning label;(2) bulk shipments of such materials must be identified by placards and identification number markings attached to the transport vehicles or bulk package; and (3) hazardous materials must be described and identified on a shipping paper that accompanies the shipment in transport and contains an emergency response telephone number that is constantly monitored while the material is in transport. The regulations are designed to provide fire and other emergency response personnel, employees who work in transportation, and the general public with vital information in the event of a "hazmat" incident.

ASSE notes with approval that the hazard communication system currently utilized by RSPA is in conformity with international standards. The Society has been involved with the recently completed project on global harmonization of hazard communication standards and encourages RSPA to review the final GHS document and ensure that the changes to the agency's HazMat Regulations do not conflict with the system that is scheduled for worldwide adoption by January 2008. The GHS document is available at <http://www.unece.org/trans/danger/publi/ghs/officialtext.html>.

This landmark document should be included in the rulemaking record as a standard reference for symbols, placarding and general hazard communication systems. It expands upon the United National Recommendations on the Transport of Dangerous Goods to ensure that criteria for classifying and labeling dangerous goods offer protections in transportation and with respect to workers, the public, and the environment. The benefits of such a harmonized system include greater regulatory consistency – especially for companies that transport hazardous materials across international boundaries – and promotion of safer transportation, handling and use of chemicals. This uniform system was also designed to meet the needs of target audiences such as transport workers and emergency responders.

With respect to RSPA's current proposal, ASSE agrees that it will be beneficial to:

- Require placarding to include the phrase "NON-AEROMATIC" when there is no detectable odor in transported propane to alert emergency responder personnel. The current lack of this additional hazard warning information could trigger inappropriate decisions by emergency responders, threatening their safety and that of the public and community during incident control.

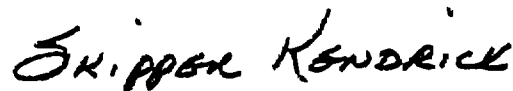
- Permit reference to the Pantone color matching system in addition to current color systems (Munsell Notations), on a voluntary basis, to lend more uniformity and wider recognition to coding systems. ASSE also supports permitting the use of reflective and retroreflective placards using materials and colors that satisfy the Federal Highway Administration Standard FP-96 – specifically retroreflective red and white that conform to ASTM D4956 (as referenced in 49 CFR 571.108 for conspicuity systems and in 49 CFR 571.108, applicable to truck tractors and trailers). We understand that this rule specifically rejects the suggestion that other colors in ASTM D4956 be included, because they are a poor match with current colors for placards and labels.
- Modify the HMR labeling requirements in §172.402(a)(2) to align with the UN Recommendations with respect to labeling organic peroxide.
- Allow commercial motor carriers to transport Division 2.1 or 2.2 gases in cylinders or Dewars marked in conformance with Compressed Gas Association (CGA) Pamphlet C-7. This proposed change also helps to harmonize the RSPA system with those adopted internationally.
- Require display of the identification number on bulk packages, freight containers, vehicles and railcars that transport organic peroxide that is temperature controlled (as subject to placarding requirements in 49 CFR 172.336(b)(2)). This modification was requested by the LAPD in order to identify those materials requiring special response needs based on temperature controls. Noting this unique characteristic on transport vehicles, by including the identification number, will increase the likelihood that appropriate actions will be taken to ensure safety even if shipping papers for the cargo are not readily available in an emergency situation.
- Permit markings, labels and placards to remain on packages containing a residue of hazardous substances (included in § 172.101 Table, Appendix A) that are below a Reportable Quantity (RQ) – an amendment primarily affecting returned rail car shipments.
- Modify the labels and placards for liquids and gases that are “Poisonous by Inhalation” to create a readily distinguishable distinction between such materials and other poisons that, under current rules, would bear similar “skull and crossbones” markings. We encourage RSPA to ensure that the new symbolic markings conform with those universal symbols included in the Global Harmonization System of Hazard Communication, to avoid the need for further changes in 2008. ASSE supports expanding the requirements for PIH markings to substances that were inadvertently omitted in the 1997 rule (Hydrogen Fluoride, Anhydrous, and similar materials).

ASSE does not oppose "grandfathering" the old style labels that were manufactured and/or installed prior to the effective date of the final rule (or, in the alternative, the October 1, 2003, date set forth in the rulemaking proposal), since many transporters had recently prepared such labels to comply with RSPA's 1997 rule (which had effective dates for those PIH warnings ranging from 1998-2001, depending upon the container/placard type). This will avoid unnecessary waste and reduce the economic burden on small transporters while still alerting the public and emergency responders to PIH hazards.

- Clarify that beeper numbers and call-back systems will not satisfy the "immediate access" requirements for emergency telephone numbers for persons offering hazardous materials for transportation while such materials are in transit and have not yet been delivered to the consignee.
- Require specific labeling of hazardous materials subject to the security plan requirements for infectious substances regulated by the Centers for Disease Control and Prevention. Mandating that persons offering such "Select Agents" (toxins and infectious agents) for transportation into commerce will improve security and assist emergency handlers take appropriate measure to protect themselves, the public and the environment.

This concludes the comments of the ASSE. We appreciate your consideration of our position and look forward to working with RSPA toward enhancing public safety, transportation, and national security.

Respectfully submitted,

A handwritten signature in black ink that reads "Skipper Kendrick". The signature is written in a cursive, slightly slanted style.

James "Skipper" Kendrick, CSP  
President